

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**ALBERTO CABRAL,  
Petitioner,**

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**v.**

**Civil Action No. 4:08-CV-501-Y**

**REBECCA TAMEZ, Warden,  
FCI-Fort Worth,  
Respondent.**

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**FINDINGS, CONCLUSIONS AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND NOTICE AND ORDER**

This cause of action was referred to the United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b), as implemented by an order of the United States District Court for the Northern District of Texas. The Findings, Conclusions and Recommendation of the United States Magistrate Judge are as follows:

**I. FINDINGS AND CONCLUSIONS**

**A. NATURE OF THE CASE**

This is a petition for writ of habeas corpus by a federal prisoner pursuant to 28 U.S.C. § 2241.

**B. PARTIES**

Petitioner Alberto Cabral, Reg. No. 32895-013, was a federal prisoner incarcerated in the Federal Correctional Institution in Fort Worth, Texas (FCI-Fort Worth) at the time this petition was filed.

Respondent Rebecca Tamez is Warden of FCI-Fort Worth.

### C. PROCEDURAL HISTORY

Cabral was serving a twenty-four month term of imprisonment for his 2006 federal court conviction for conspiracy to distribute and possess with intent to distribute five kilograms or more of cocaine in the United States District Court of Colorado, Criminal Docket # 04-CR-403-LTB-10. In this petition, Cabral seeks cancellation of his deportation. (Petition at 2) Bureau records indicate that Cabral was released from federal confinement on August 1, 2008. *See* U.S. Department of Justice, Federal Bureau of Prisons/Inmate Locator, *available at* <http://www.bop.gov>. Further, copies of orders sent by the clerk of Court to Cabral at his address of record after his release date have been returned “refused.” As of this date, Cabral has not notified the Court of his current address.

### D. DISCUSSION

Because Cabral has been released from federal custody, this Court can no longer provide him with the relief he seeks. *See Bailey v. Southerland*, 821 F.2d 277, 278-79 (5<sup>th</sup> Cir. 1987). Cabral is no longer confined in FCI-Fort Worth nor has he demonstrated that he is suffering any current collateral consequences or that he will suffer any collateral consequences in the future. *See Spencer v. Kemna*, 523 U.S. 1, 7-8 (1998). Dismissal of this petition is therefore appropriate as moot based upon Cabral’s release. *See Lane v. Williams*, 455 U.S. 624, 632 (1982); *McRae v. Hogan*, 576 F.2d 615, 616-17 (5<sup>th</sup> Cir. 1978).

## II. RECOMMENDATION

Cabral’s petition should be DISMISSED as moot.

### **III. NOTICE OF RIGHT TO OBJECT TO PROPOSED FINDINGS, CONCLUSIONS AND RECOMMENDATION AND CONSEQUENCES OF FAILURE TO OBJECT**

Under 28 U.S.C. § 636(b)(1), each party to this action has the right to serve and file specific written objections in the United States District Court to the United States Magistrate Judge's proposed findings, conclusions, and recommendation within ten (10) days after the party has been served with a copy of this document. The court is extending the deadline within which to file specific written objections to the United States Magistrate Judge's proposed findings, conclusions, and recommendation until December 23, 2008. The United States District Judge need only make a *de novo* determination of those portions of the United States Magistrate Judge's proposed findings, conclusions, and recommendation to which specific objection is timely made. *See* 28 U.S.C. § 636(B)(1). Failure to file by the date stated above a specific written objection to a proposed factual finding or legal conclusion will bar a party, except upon grounds of plain error or manifest injustice, from attacking on appeal any such proposed factual finding or legal conclusion accepted by the United States District Judge. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5<sup>th</sup> Cir. 1996) (en banc op. on reh'g); *Carter v. Collins*, 918 F.2d 1198, 1203 (5<sup>th</sup> Cir. 1990).

### **IV. ORDER**

Under 28 U.S.C. § 636, it is ORDERED that each party is granted until December 23, 2008, to serve and file written objections to the United States Magistrate Judge's proposed findings, conclusions, and recommendation. It is further ORDERED that if objections are filed and the opposing party chooses to file a response, a response shall be filed within seven (7) days of the filing date of the objections.

It is further ORDERED that the above-styled and numbered action, previously referred to the United States Magistrate Judge for findings, conclusions, and recommendation, be and hereby is returned to the docket of the United States District Judge.

SIGNED December 2, 2008.

/s/ Charles Bleil  
CHARLES BLEIL  
UNITED STATES MAGISTRATE JUDGE